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OF

BY

FORMERLY A JUDGE OF THE SUPREME COURT OF TEX.
AUTHOR OF "ESSAYS ON HUMAN NATURE."

Hon. Chas. Sumner
with Compliments of
The author.

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LAR VIEW

OF

IN THE STATE,

AND

the Public Schools.

BY

HURLBUT,

OF THE COURT OF THE STATE OF NEW YORK;
"ON HUMAN RIGHTS," ETC.

©

A

SECULAR VIEW

OF

RELIGION IN THE STATE,

AND

The Bible in the Public Schools.

BY

E. P. HURLBUT,

FORMERLY A JUDGE OF THE SUPREME COURT OF THE STATE OF NEW YORK;
AUTHOR OF "ESSAYS ON HUMAN RIGHTS," ETC.



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INTRODUCTORY.

The writer, in common with many of his fellow citizens, has long looked with apprehension on a foreign religious element, which has assumed large proportions in this country; and he has been desirous that some just and peaceful remedy might be devised, to prevent a national calamity from this source. An intelligent friend, retired from politics, and all public strife, and who had meditated much on the subject, communicated in a letter addressed to the writer, an amendment to the first article of the Amendments to the Constitution of the United States, which will be found in the following pages, on the subject of a foreign hierarchical establishment in this country. The writer, after much reflection, esteemed this proposition of sufficient value to merit public attention, and communicated it by letter to several friends; intending if they approved it, to assign some reasons in its favor, if permitted, in the *New York Evening Post*; but meant to write anonymously, as he was completely retired from public life, and averse to public notoriety. One letter, however, escaped, and found its way into the paper referred to, with the writer's name in full; and thus committed, he felt the more constrained to assign his reasons at length, in support of the proposition. This he undertook, and one paper was published in that journal; but as the writer

proceeded, he found the matter rather voluminous for a daily paper; and as the theory he advanced embraced the present controversy respecting religious instruction in the schools, he thought it better to present the subject in one view, and in the present form: hence this pamphlet, which if noticed at all, seems likely to encounter unfriendly criticism at the hands of religious sectarians, and of all those who have never considered the proper relations of religion to a free state. So far as the writer has observed, no publicist has yet entered the lists of this controversy, the argument having so far (excepting what has been briefly put forth by the daily press) been presented by gentlemen of the clerical profession; and it seems fit that the secular view of the school question should be more elaborately stated. This the writer has endeavored to do, at the hazard of being called ill names, and of standing on neutral ground between the two contending religious factions, which may provoke the ire of both; as was the case according to Bunyan, of a neutral, at the siege of the town of "mansoul."

The writer, though a friend of morality and true religion, will not however admit, any more than the late Thomas Hood, that a man is pious "when he is only bilious;" and agrees with Lord Macaulay, "that the experience of many ages proves, that men may be ready to fight to the death, and to persecute without pity, for a religion, whose creed they do not understand, and whose precepts they habitually disobey."

E. P. H.

RELIGION IN THE STATE

AND

THE BIBLE IN THE PUBLIC SCHOOLS.

I.

The following amendment is proposed to article I of the amendments to the Constitution of the United States. The words in italics are proposed to be added to the present article :

“ ART. I. *Neither congress nor any state shall make any law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances. But congress may enact such laws as it shall deem necessary to control or prevent the establishment or continuance of any foreign hierarchial power in this country, founded on principles or dogmas antagonistic to republican institutions.*”

It is assumed that there is nothing in the Constitution as it stands, which forbids a *state* from establishing a religion, and that no power is conferred on congress by the Constitution to forbid a foreign hierarchial establishment in the United States. If such a power be needed, then the proposed amendment is also necessary.

In discussing the proposition it seems proper, even at the risk of being tedious, to draw on some of the first principles of civil government, and to make a few historical references pertinent to the subject. I commence, then, by observing that there exist but two pure, original sources of governmental authority : one professedly derived from the Supreme Divine Power, and exercised by divine right, which is theocracy ; while the other is earthly and human, deriving all authority from the people, and is based on their consent ; which is democracy. In the former the ruler is the vicegerent of Heaven ; while in the latter he is the mere servant of the people. The one is a minister of the Divine Will ; while the other only executes the will of the people. The right divine is, of course, a mere assumption ; but this assumption, believed and acquiesced in by a nation, becomes a reality, and, in general, a dreadful one.

A government mainly theocratic regards men's relations to the Divinity and a future life as of primary importance, and treats their civil rights and duties as secondary ; while in a democratic state men's spiritual interests are left to their own individual care, and to such guides as they may voluntarily select ; the government being concerned only in maintaining justice between the citizens and securing the public defense. The rulers in a theocratic government are assumed to be divinely commissioned and infallible, and popular remonstrances are answered by a " Thus saith the Lord ;" while in a democracy it is held that the voice of the people, rather than that of the high priest or monarch, is the voice of God ; and obedience to law is

demanded because it is the highest and most solemn expression of the popular sentiment.

* In a theocracy, the state is little or nothing—the church everything; or in other words, the church is the state; while in a democracy, the state is everything, and the church nothing, so far as law, or legal recognition is concerned. The church exists as the offspring of public sentiment, without giving law, or law given to it. Theocracy may degenerate into monarchy, or become mixed with the latter, when king and priest divide the sovereignty, and conspire to oppress and plunder the people. Then the monarch assumes the title of “Defender of the Faith,” and divides the spoils of the subjects with his prelates. Examples of pure theocracy are found in the history of the Jews, of Egypt, and of Mexico and South America before the Spanish conquest, and in Rome under the Popes. Examples of theocracy, mixed with the monarchical element, now exist in every European monarchy where religion is established by law and the prince claims to rule by right divine. And it can be said with truth, that pure or mixed theocracy exists nowhere, at this age of the world, without encountering the antagonism of the democratic instinct of the subject, and that the people are everywhere anxious to be delivered from it as from an oppression and a scourge.

Now in matters of state there cannot exist a more perfect contradiction than arises between the theories, on the one hand, that the church is everything and the state nothing, or only its mere instrument; and on the other, the state is everything and the church nothing, except a mere volunteer, to aid lawful authority by its moral and

religious influence. A free and spontaneous religion may help to support the state, by the moral strength which it may confer on the citizen who is a pillar of the state; but the least drop of religion legally allied to the state, like the water in Father Tom's punch, spoils the state.

Count de Montalembert wisely advocates a free church in a free state, and maintains that neither can be free ~~with-~~^{out} the other is so.

I need hardly say that the American government is as nearly democratic as the vast extent of our country will permit; that it is a constitutional, democratic republic, without a single element of theocracy, but directly opposed to it; and now that slavery is abolished, equally destitute of any aristocratic element. It is founded purely on popular consent, and recognizes no source of power but the people. It acknowledges no spiritual power on earth, nor does it deal with man's relations to the infinite, or concern itself about his future existence, but confines its ministrations to man's earthly relations, rights and duties. Our citizens are bound only to be faithful to the state, and just to their fellow-men; doing which, they are left as free in thought, opinion and action as if they were in a state of nature. Their religion is a secret between them and their divinity. All religious sects are equal, and equally disregarded by the law. The citizen is not known as a religionist, but only as a man. This seems to be the true idea of civil and religious liberty; and a few historical examples will show how great an advance it is upon the past, and whether it is not too precious a thing to be lost or hazarded by our errors or lack of vigilance. My examples will be drawn from governments in which the theocratic element either

predominated or had great influence in the state ; and observing a proper impartiality between the two grand divisions of the Christian Church, the Catholic and the Protestant ; I shall quote two cases from each, alike inhuman and cruel, and equally disgraceful to both.

During the Elizabethan age, and at a period when Bacon was maturing his profound philosophy, and the greatest poet of all the ages was rising to immortal fame, the monarchy of Spain exhibited itself to the world as a theocracy, interpreting the will of the Supreme, and acting altogether for the glory of God and the cure of souls. And this is the way it cured one poor soul. Anna van den Hove, a maid-servant, forty years of age, had been born and bred in the Reformed faith ; the Jesuits denounced her to the civil authorities, and demanded her condemnation and death. The priest-ridden magistrates condemned her to be buried alive, and at the same time the Jesuits informed her that, by uniting herself to the church, she might escape punishment. But she refused to abandon her religion for the fear of death ; and so, says the historian (Motley), “ she was led, one fine midsummer morning, to the hayfield outside of Brussels, between two Jesuits, followed by a number of a peculiar kind of monks, called love-brothers. These holy men goaded her as she went, telling her that she was the devil’s carrion, and calling on her to repent at the last moment, and thus save her life and escape eternal damnation beside. * * When they came to the hayfield they found the pit already dug, and the maid-servant was ordered to descend into it. The executioner then covered her up to the waist, and a last summons was made to her to renounce her errors. She refused, and then the earth

was piled upon her, and the hangman jumped upon the grave till it was flattened and firm." A Catholic theocracy must take the credit of this historical fact. I proceed to another case, which occurred under a Protestant theocracy.

A hundred years later, and but eighty years before the American revolution, the theocratic element so operated in Scotland as to accomplish the following rather remarkable fact: A student named Aikenhead, about eighteen years of age, had read some arguments against the authenticity of the Bible. He said, among other things, that trinity in unity was as much a contradiction as a square circle. He attributed the Pentateuch to Ezra, called the Apocalypse an allegorical book about the philosopher's stone, said Moses learned magic in Egypt, and that Christianity was a delusion which would not last till the year 1800; and for this he was prosecuted by the Lord-Advocate.

There was among the Scottish statutes one which made it a capital crime to curse the Supreme Being or any person of the Trinity.

Aikenhead had not offended against this statute by any fair construction of it. But he had no counsel, and was unable to defend himself, and the Lord-Advocate pressed a conviction law or no law. So the poor student was convicted and sentenced to be hanged, and buried at the foot of the gallows. "And (says the historian, Lord Macaulay) it was in vain that he with tears abjured his errors, and begged piteously for mercy. * * * He petitioned the Privy Council that, if his life could not be spared, he might be allowed a short respite to make his peace with the God he had offended. Some of the councillors were for granting this small indulgence. Others thought it

ought not to be granted, unless the ministers of Edinburgh should intercede. * * * The ministers demanded not only the poor boy's death, but his speedy death, though it should be his eternal death. Even from their pulpits they cried out for cutting him off; and Aikenhead was hanged between Edinburgh and Leith. He professed deep repentance, and suffered with the Bible in his hand." I must say that the Protestant theocracy though they had a hundred years in which to improve on the case of Anna van den Hove, does not appear to have availed itself of the opportunity.

Let us pass over from Protestant Scotland to Catholic France. It may be that they "did these things better in France." We shall see. About a century ago, a youth, De la Barre by name, aged eighteen, being at a tavern, and intoxicated, with a set of drunken companions, burlesqued some of the ceremonies of the Catholic Church, and was overheard by a waiter and a maid-servant. The unhappy youth was tried for this offence, and sentenced to have his hand cut off, his tongue cut out, and then to be decapitated and thrown into a pile of burning faggots. The sentence was executed. This happened about twelve years before the Declaration of American Independence.

Turning to Protestant America, to New England, whose settlers fled from the persecutions of theocracy abroad to set up a spiritual tyranny for themselves, we find our colonial ancestors, under a species of democracy, corrupted by a remnant of theocracy, burning or hanging witches, executing Quakers and whipping them through the towns; and in looking for a man of the time who stood up against this with stern reason and justice, we find Roger Williams

alone, who, as soon as he fairly showed his hand, was banished to a howling wilderness, on pain of death, by an infuriated priesthood.

But the history of theocratic tyranny was well understood by the framers of the American Constitution, who, regarding "history as philosophy teaching by example," framed a government which left the religious element in human nature, to the voluntary impulse of the citizens, and utterly ignored a priesthood as a power in the state.

At that time the country was almost wholly Protestant; and although there were then, as now, some clergymen who lamented the absence of the religious element in the Constitution, yet they in general acquiesced, and from the origin of our government until lately religion has been at peace with the state. But the acquisition of new territory, and an immense foreign immigration, bringing in a foreign religion, together with the discovery of a new religion by the Mormons, has very materially changed our case. The latter constitute an entire territory, and may soon become a state; when such, what prevents their establishing Mormonism as the religion of that state? The princely bishop of Rome claims that a large body of our citizens are his subjects, and he has objections to some of our laws and our system of common education; while he holds to doctrines at war with the existence of democratic government. (See the Papal syllabus published by Pius IX in December, 1864).

And even the most liberal of American Catholics, so liberal, indeed, as to have fallen into decay with the Roman priesthood in this country, Dr. Brownson, puts forth the following, as the latest revision of his creed;

“That the Pope, by reason of the natural supremaey of the spiritual over the temporal powers, has a jurisdiction over sovereign princes; and that they are subject to the discipline of the Church in like manner as private persons, and for their public as well as their private acts, when their public acts contravene the law of God. And (I add) whether such contravention exist in a given case, the Pope is the exclusive judge, final and infallible.”

When such a potentate asserts such a claim, and invades our soil by a corps of organized emissaries, officers and dignitaries, over whose appointment or proceedings we have no control, the question arises among Democrats, Catholics, Protestants, Jews, Deists, Atheists, Pantheists, Nihilians and Philanthropists, what are they going to do about it? And this I will endeavor to answer in the next section.

II.

The proposed amendment prohibits a *state* from establishing any religion, or preventing its free exercise. The writer has assumed, that there is nothing in the Constitution as it stands, which prevents a state from doing either. It is true that every *state* Constitution contains provisions in favor of religious liberty; but Constitutions are the creatures of popular sentiment, and change with it. There are, however, clauses in the Constitution of the United States which might be tortured into a construction prohibitory of state establishment of religion, by a court which should lean against it; or might be held, as I think more properly, by an impartial legal tribunal, not applicable to the case: such as the clauses which provide that the privileges and immunities of the citizens of the several states shall be equal, and that the United States shall guaranty to every state, a republican form of government. It is better that a Constitution should speak plainly, than hint its meaning. Now, if the protection and worship of the Almighty, and the cure of souls, were a proper function of the state, it would be contrary to our theory, and flatly against first principles, to forbid state action on the subject. But it is fit to deny to a state the exercise of a power which is not legitimate, but fanatical and subversive of free government. It is wise to guard against the accidents of ignorance, blind zeal and passion. Experience under government evolves the tendencies of a people to depart from the true principles of administration, and exhibits their blunders and excesses. Constitutional prohi-

bitions prevent the recurrence of these, and in the end, constitute a code of fundamental laws highly conservative of human liberty. They secure to rising generations the benefits of that wisdom which proceeds from experience, the true teacher of nations, as of the individuals composing them. Let us suppose now that the territory of *Utah* applies for admission as a state, and with the craft and subtlety peculiar to theocracy (and that territory affords an example of one of the purest theocracies in existence, which the friends of theocratic government may pause and admire); suppose, I say, that Utah presents an excellent democratic Constitution, which shall be approved by congress, and she shall be transformed from a theocratic territory to a democratic state. She is then an equal member of the confederacy, and, within certain limits, sovereign. May she not immediately organize a convention to reconsider her Constitution, establish Mormonism as the religion of the state, and forbid the free exercise of any other within her limits? But you have imposed a condition, that she shall not do this; whence your authority for that condition? You look into the Constitution of the United States, and in great legal distress, endeavor, by forced constructions, to accomplish that for which you had need of an express constitutional power. Such constructions in the end destroy the sacredness of the Constitution, and make it waste paper. Will the advocates of God-descended governments consent to a Mormon theocracy within our limits?

Let us turn to another state. When the African race in Louisiana shall have fully developed their religious instinct, and received the ministrations and ghostly counsel

of all the Christian priests who may be concerned for their souls' welfare, who knows but the Pope may win a vast majority of the converts, and adding these to the white Catholic population, obtain a vote strong enough to establish Catholicism as the religion of that state? Would not the Protestants, who only want to introduce a little bit of theocracy in our public schools, get rather an overdose of their favorite state medicine in that event? The bigot loves his own especial theocracy, but that of another is only "*your d—d religion*," as the profane Lord Thurlow once said of the religion of the English dissenters; while the true and enlightened friend of civil and religious liberty impartially rejects every body's theocracy, whether it present itself as a whole body, or in fragments—in a Constitution or in a statute.

I turn now, to a mere direct consideration of that portion of the proposed amendment, which relates to a foreign hierarchical establishment in this country. Under this amendment congress would be authorized to forbid, under effective penalties, the exercise of any priestly office under a foreign appointment, by any order of religionists, whose organization, discipline and teachings among us, were antagonistical and dangerous to our political institutions. Candor compels the admission, that this provision points to the Roman pontiff, his high dignitaries, and his doctrines. The dignitaries are his priests, bishops, archbishops, and cardinals;—the doctrines are contained in the Papal syllabus referred to in my first paper; and these I denounce as utterly at war with our entire theory of government, and hostile alike to human liberty, the advancement of science and learning, and the rights and dignity

of man. They would extinguish the intellectual light of the present age, and carry the world back to the middle ages, their ignorance, tyranny, and barbarism. Pius IX seems to have only half awakened from a vastly longer and profounder sleep, than that of Rip Van Winkle, and perceiving a great and unaccustomed light around him, lays about in all directions, if possible, to extinguish it. If he were not greatly in earnest, and were not enthroned in the hearts of vast multitudes of men, he would be simply ridiculous ; but as the case stands, this blind giant is dangerous, and especially so to democratic institutions. His syllabus was written by the hand of a master — from the long, large head of a clear-sighted Jesuit, and is the grandest exposition of theocratic government, which has ever been exhibited to the world. If it be just and true, then our democratic theory of government is a foolish, and elaborate lie — “a mockery, a delusion and a snare ;” but if democracy be just and true, then that syllabus is the greatest falsehood of all the ages. America has made her election, which to believe, and will not surrender her convictions or her establishments, at the bidding of this mighty Theocrat.

He is however advancing upon us — and the question is, Can he be defeated, or resisted, by any means, in harmony with the American idea of civil and religious liberty ?

The first duty of a nation, is self-preservation ; and the safety of the state consists in the unity and harmony of the elements, which enter into its Constitution. A state, for instance, cannot foster freedom and slavery, at one and the same time, and under one Constitution ; for being diametrically opposed, one will encroach on the other, until

the mightiest prevails. This might have been known, without being proved by our late direful experience. But we have proved it, and have given the bloody record to history. Let us derive some greater advantage from our vast expenditure of blood and treasure, than African emancipation — how great a value soever we may set upon that. There are bondmen still on our soil, subjects of a foreign tyranny, in comparison with whose bondage, African slavery, with intellectual freedom, was as nought. Democracy and Theocracy are stronger and fiercer in their antagonism, than freedom and slavery. The former cannot coexist in the same nation, without deadly strife, until a triumph is secured to one or the other. A free government rests on opinion, and opinion may so change as to convert it into a despotism; it must therefore be guarded against influences which tend to its overthrow. If the sentiments of a nation may be moulded and kept stable by its songs, what may not be accomplished by systematic education, and spiritual guidance? Let us not forget the Crusades, and the millions who were urged on by fanatical priests, to the rescue of the holy sepulchre; nor the force of that public opinion at the South, which was so moulded by education and habit, as to plunge one half of this country into a suicidal rebellion. But especially should the opinions of the people of a free state, be guarded against unfriendly foreign influence. Now what have we allowed slowly, cautiously, and craftily to creep into the body and vitals of the Republic? A foreign power, efficiently organized, appointing officers among us to carry out its designs, creating priests, bishops and archbishops, who subject their people to a perfect discipline;

compel them by spiritual threats to support them, not only, but to contribute to the maintenance of their foreign lord, whom these subjects reverence and honor with a devotion far greater than they exhibit toward the civil authorities of the country. Moreover, the great body of these spiritual subjects of the foreign potentate, are themselves foreigners, whose education and habits of life, have not been such as to impress them in favor of a theory of government which makes the state sovereign, and regards the church as of no legal account. Nay, such is the state of their mental light and discipline, that if the foreign Prince, to whom their hearts own allegiance, should claim that their fealty was due to him before the state, there is little doubt that a great portion of them would acquiesce in the demand. Yet this potentate *does* claim that his authority is high as Heaven above the state; and the priests, bishops and arch-bishops, whom he appoints to rule over his subjects on our soil, are by no means backward in supporting the spiritual supremacy of the Pope their master. Look at the posture of the American bishops now in Rome. They are prostrate before their Lord, the only sovereign on earth whom they acknowledge. They, more than any out of Rome, urge the dogma of infallibility, unless all accounts are false; so that no American Catholic may thereafter, think, speak, or write of any matter of religion, with the liberty of a freeman. These spiritual guides are the very creatures of this foreign spiritual tyrant, owing their power and dignity to his appointment. Is there no way of reaching a case like this?

Suppose a foreign potentate, having hostile purposes to serve on our soil, should offer by treaty to secure the rights

and privileges, which the Pope now exercises among us, would such a treaty gain a solitary vote in the senate of the Union? I imagine not. Then may we not forbid the intrusion of an authority *without leave*, which, on leave *being asked*, we should at once refuse? The truth is, this, like many other abuses, has been suffered to grow without check, from indifference, or ignorance of any means of prevention, and other causes, moral and political, until its proportions have become enormous, and we have now to resort to measures for our self-preservation, whose violence must necessarily be proportioned to the evil to be destroyed. Delays are proverbially dangerous, and this perhaps is the most dangerous of any. Suppose then, we indulge in a familiar piece of surgery, and cut the umbilical cord which binds the spiritual fœtus of America to the great mother of superstition, and thus stunt a growth, whose completed proportions would be likely, upon a successful delivery, to ruin the nurse into whose arms it should fall. It is not murder for the midwife humanely to stifle the birth of a monster.

No religious dignitaries in America, save the Catholic, receive a foreign appointment; are we to tolerate forever an exception in favor of Rome? Would not the bishops and clergy of this order of religionists become far more independent and enlightened, and hence far more worthy of confidence, if their mode of appointment were changed to the American method? Congress, under the proposed amendment, would but reduce the Roman priesthood officiating in this country to the level of the priests of other Christian denominations, and bind them to respect the institutions of America, rather than those of an un-

friendly state. Be sure that the theocracy of Rome and the democracy of America, being utterly antagonistic, have no other way to peace, but by an entire separation. And here I would address a word to the Catholic laity in this country, whose interests are identical with those of the other citizens of the republic; whose rights are equal, and whose religious sentiments are equally entitled to protection. I say not but their religion is as good as any other; doubtless it is as sincerely entertained as any other. The writer does not propose to judge religion; he does not make it either a business or a profession. But he knows the history of all the religions of the earth — what good and what evil they have done — and although he knows arithmetic, he cannot calculate the enormous amount of bloodshed and violence which the antagonism of religious sects has occasioned; and he would, if possible, deliver his country from the danger of a future religious war.

The Catholic, consulting his true interest, should as sedulously avoid theocracy in the state as any other citizen. He loves *civil* liberty as well as any; let him know that that cannot safely exist in the absence of religious liberty. He can enjoy the full benefit of his religion, and the ministrations of his sacred orders, without foreign influence or appointment. The example of all the other orders of religionists in the country proves it. There can exist an American Catholic church, as well as an American Protestant church; and all can freely worship the Divine Power of the Universe, without interfering with each other, or endangering the peace of the state; provided they all concur in sinking the theocratic element in civil

government, and carry not one iota of it to the polls. Is it then the true interest of the Catholic laity in America (we know what the interest of the priest is) to bow to a foreign potentate, and reverence his appointees, at the hazard of their civil liberties? They love *civil* power; none grasp at it more eagerly; then if it be so desirable to control in the selection of civil officers, why not carry out the principle in the appointment of spiritual ones? They profess to love democracy; let me say, if spiritual appointments properly proceed from God, then do civil ones; and theocracy, and not democracy, should prevail in the state. But most Catholics among us have fled from state theocracy, and taken refuge in democracy; let them then be consistent, and abandon theocracy altogether.

Theocracy, as the world has ever known it, is not religion, but a false assumption—usurpation and tyranny. It is imposed on the innocent by the crafty; on the lean by the fat: on the many who toil, by the few, who live by their wits. It is craft and cunning, and nothing else. It began in an age of darkness, it should end in an era of light.

But is not the proposed amendment calculated to abridge religious liberty? I answer in the negative. There is a distinction to be taken between religious opinion and worship on the one hand, and organizations and practices in the name of religion on the other. If a man may hold any religious opinion with legal impunity; may speak and write of it freely, and worship any divinity, or none, at will, without legal molestation, then, in respect of religion, he is free. This distinction is taken in the Constitution of the state of New York, which declares that

the liberty of religious profession and worship secured by it, shall not be construed to excuse *acts* of licentiousness, or justify any *practices* inconsistent with the peace and safety of the state. Here, a fit construction is given, of the provision in favor of religious freedom, by the Constitution itself; although I doubt not, that in the absence of it, any enlightened court would have given the same interpretation to the clause in question.

Now under this provision, the religious freedom of the Mormon would not be infringed, in judgment of law, though polygamy were abolished, and he imprisoned for bigamy, although that vice be consecrated by the religion he professes.

A sect such as we have lately heard of in Russia, which indulges in human sacrifices, as a sacrament of their religion, might be held responsible for murder, without violating freedom of conscience. These are religious *fungi*, diseased growths, which the law may extirpate without infringing on the main body, from which they spring. So also is theocracy a fungus of religion. It may be eradicated without hurting religion itself. Restraint of theocracy, is the way to religious health and freedom. I feel no difficulty therefore in asserting, that we can sever the connection between the Roman pontiff and the dignitaries of the Catholic Church in America, not only without violence to sound principles, but to the advantage of the state, and to the Church itself, which might then become truly Catholic, and command the respect of an age of light and liberty.

The Pope appoints bishops and archbishops for America; while in Catholic Europe, the sovereign of the state

has the right of nominating these dignitaries, who are only confirmed at Rome. But such a power of nomination and virtual appointment, cannot be exercised by the civil authorities of our republic, which refuses all cognizance of matters ecclesiastical. Here is ample reason, were there no other, for compelling the Pope to abstain from his appointments in the United States, since the present course of proceeding, subjects our democratic state to a power, against which, loyal Catholic monarchies of Europe revolt. An approved writer on the laws of nations (Vattel) does not hesitate to pronounce such appointments by the Pope a violation of the laws of nations, and denounces them in the following terms (Book I. ch. 12):

“ We see several countries in which ecclesiastical dignities and great benefices are distributed by a foreign power, by the Pope, who bestows them upon his creatures, and very often on men who are not the subjects of the state. This practice is equally contrary to the laws of nations, and the principles of common policy. A people ought not to receive laws from strangers, to suffer them to interfere in their affairs, nor to take from them their advantages.

* * The princes who consented to the introduction of so enormous an abuse, were equally wanting to themselves and their people. * * Even in the states, where the sovereigns have preserved so important a prerogative of the crown, the abuse in a great measure subsists. The sovereign nominates indeed to bishoprics and great benefices, but his authority is not sufficient to put them in possession of their benefices; they must have bulls from Rome. By this means, the whole body of the clergy still depend on the court of Rome; and they expect from it dignities

and the purple, which according to the ostentatious presentations of those who are invested with it renders them equal to sovereigns ; they have everything to fear from its resentment, and therefore are always disposed to comply with it. On the other hand, the court of Rome supports this clergy with all its power ; it assists them by its politics and credit ; protects them against their enemies, and against those who would set bounds to their power, frequently against the just indignation of their sovereigns, and by this means attaches them to it more strongly. Is it not doing an injury to the rights of society, and shocking the first elements of governments, thus to suffer a great number of subjects, and even subjects of high posts, to be dependent on a foreign prince, and become devoted to him ? Would a prudent sovereign receive men who preached such doctrines ? * * A numerous and powerful order, withdrawn from the public authority, and rendered dependent on a foreign court, is an entire subversion of order in the republic, and a manifest diminution of the sovereignty."

Although the bishops and archbishops are not nobles, yet their rank is high, and among their people they wield the influence of an order of nobility, and exert a power which a statute could hardly make greater, or cause to be more implicitly obeyed. But a cardinal, whose appointment is already foreshadowed for America, and even the candidates for the honor already named, is a lord ; and when he is obtruded on the soil of free and equal America, how will our laws regard him ; and will anybody thereafter ever think of being "as good as you ?" Ought we not to be permitted to create lords temporal, to counteract the

dignity and influence of this order of lords spiritual? No, we cannot; our hands are tied, and our hearts are broken by the Constitution. We may not have a home-made lord, and can only gratify our love of nobility by gazing with admiration and awe upon the foreign dignitary, who may condescend to tread our dirty democratic soil. Our plebeian Constitution declares that, "no title of nobility shall be granted by the *United States*," and no *state* shall "grant any title of nobility;" nor can any "person holding any office of trust under the United States, without the consent of Congress, accept of any *title* of any kind whatever from any king, prince or foreign state." But where is the prohibition to a *foreign prince or government* against creating an American citizen a noble, or sending a nobleman to reside among us, with vast moral and spiritual powers, and with a definite office and jurisdiction, to be exercised among our people? It may be that a member of Congress — *Morrissey* for example — cannot be created a cardinal; and so much the better for the Pope; and that is all the good the present restriction in the Constitution seems likely to accomplish!

It is clear that there is nothing in the Constitution to prevent the Pope from appointing a lord cardinal for the United States, or elevating any citizen to that dignity, who does not hold office under the general government. The prince-bishop of Rome does not enjoy a like privilege in the well regulated monarchies where his religion is established. Surely Rome is regarded by us, in the language of the treaties, as "the most favored nation," which is probably owing to the "distinguished consideration" with which our countrymen are accustomed to regard

modest merit. Shall we continue to yield to the author of the syllabus of 1864, that which no civil power on earth would venture to claim? The free toleration of all religions does not imply a tame acquiescence in the growth of a foreign organization, with an order of nobles, or *quasi* nobles, of foreign appointment, displaying a pomp and power wholly at variance with the spirit and principles of a democratic state.

The religions of this country, whether old or new, good, bad, or indifferent, are the spontaneous products of the American mind; are organized after our own methods, out of American materials, and are, for the most part, in harmony with the American idea of human rights and political government. Not so, the religion of the Pope. He gives law and limit to religious opinion; thinks for his subjects, and ensures a "holy calm" to all the heads which bow to his spiritual authority. If he be the vicegerent of heaven, it is well; but the Yankee mind is curious to see "the documents" by which his office is created, and will not allow him to be "sworn in" until he exhibits a valid certificate from the "inspectors of election." That is the way democracy works, and if anybody does not like it he is out of place on American soil.

Now, are the ministrations of the Pope so beneficial to America, as to secure our continued acquiescence in his dominion — his government within our government — his spiritual *imperium* within our democratic *imperio*? Not every Catholic, even, I venture to say, will answer in the affirmative. An able member of the Catholic church, who was once the mouthpiece of Catholicism in this country, has written thus:

"Hitherto the church has been presented to us, not as the Catholic church, but as a *foreign church*. We need the Catholicity, but not the *foreignism*; for that foreignism which Catholics bring with them, and perpetuate in their foreign colony, is uncatholic, and *antagonistical to the American idea*, and has thus far done more injury to our American order of civilization than the Catholicity they also bring has yet done to aid it. *The spread of Catholicity, associated with the foreign civilization throughout the country, would destroy the American order of civilization, and reproduce in our new world, that of the old world, on which ours is, in our judgment, a decided advance.*" An advance because we have left out the theocratic element in government.

The same American Catholic writes again: "We want the Catholic religion in its Catholicity for our countrymen, not in a sectarian or national character. We want the Catholic dogma, the Catholic worship, the Catholic communion; *but we want none of the Europeanism that has been associated with it; none of the arbitrary or despotic rule, to which Catholics have been for so many ages subjected.*"

It seems to the writer that the Catholic laity should think for a moment before they set themselves in opposition to the proposed amendment. They love liberty, civil and religious, as well as other American citizens. If the foreign portion of them really loved European institutions, why come they to America? They cannot desire to be forever the sport and victims of priests and lay demagogues. It is not the interest of a Catholic, more than of any other lay religionists, to clothe ambitious men with power which may lead to his humiliation and oppression. I may mistake the Irish character, but I incline to the opinion, that

although the most modest of this people, may neither like to rule or be ruled, yet, of the two, they had rather rule. Let me assure the reader, that this proposition comes from no ambitious politician; and that the pen which advocates it, is not in the service of any political party. Both the originator, and the advocate of the proposed amendment, have attained to an age, when political ambition would savor of dotage or of madness; and to an experience, which points to retirement as their only way to happiness. The writer has no motive, but to warn his countrymen of the dangers which beset their path; and no wish but to secure a just, pure, and peaceful government.

III.

An absolute government, whether of priest or king, is easiest founded in an age of ignorance, and is rendered stable by it. But the enlightened man aspires to freedom of thought and government, and two things only are necessary to secure them, to wit: that the people should be enlightened, and should be just. An ignorant populace is an easy prey to the demagogue and the priest, and an unjust one is the victim of fraud, force, and anarchy. A free state then founds on intelligence, and the active sense of justice, and establishes schools as means vital to its existence. It may be admitted, however, that the state has no business with the education of its people, except with a view to its own proper preservation; its power in this respect being limited by its necessity, and where that ceases, the power to tax for popular instruction ceases also. There are those who deny to the state any power whatever to tax for educational purposes; and when they can show that a free state can flourish without the exercise of this power, they will be clearly in the right.

My own doubts on this subject have been dispelled by observation and reflection; and I now agree with the founders of our common school system, and esteem a proper state establishment for common education, the main pillar of the republic. In this state we have had some sixty years experience of a common school system, and we can point to our intelligent native population, as a monument of its wisdom.

In the year 1811, the legislature authorized the governor to appoint five commissioners to report a system for the organization and establishment of common schools. These made their report to the ensuing legislature, which passed an act for the establishment of schools in the country counties, which was extended by the legislature in 1813, with some special provisions to the city of New York. The report of the commissioners limited the degree of instruction in the schools to a strict necessity, and contemplated that there should be taught, only "reading, writing, arithmetic, and the principles of morality."

Each town was to raise by tax, as much money as should be received from the school fund, and the teachers were to be of proper learning, and of unimpeachable character; and I will give to the advocates of Bible reading in the schools the benefit of the concession that the report of the commissioners favored the reading of select chapters from that book.

In this report we have the germ of our common school system, and we find in it the assertion: 1. Of a rightful power to *tax* for educational purposes. 2. The power *limited* to teaching the simplest elements of learning. 3. That *morality* should form a part of education.

Subsequent statutes up to the year 1844 substantially carried out this idea, and did not materially alter the programme; although they are silent on the subject of teaching morality, and of reading the Bible in the schools, as was the first statute passed in 1812. Indeed in no statute is to be found a direction as to what studies shall be pursued, or what principles of morality shall be taught, which seems to have been left to the teachers, it may be under

the direction of the trustees of the respective school districts; and here undoubtedly, room was left for great diversity of treatment, and even for gross abuses. The first statutes were also silent on the subject of instruction, and morality is only alluded to in the provision which requires that the teachers shall be "of good moral character."

It was not until the year 1844 that the legislature made any declaration on the subject of religious teaching, when an enactment was made against any religious sectarian instruction or practice, excepting the reading of the Bible "without note or comment" from the prohibition. That statute, however, did not direct or recommend the reading of the Bible in the schools, but only forbade the commissioners of schools to exclude it, by such confused phraseology, as makes it difficult of interpretation — enacting a *muddle* to quiet a *muss* existing between the Protestants and Catholics, on the subject of scripture reading in the city schools.

Let us return to the idea of the founders of the common school. They asserted the right and the expediency of a *tax* for the support of it, and this we have not only agreed to for more than half a century, but we have lately extended the power of taxation, until common education has become entirely free. Here is the most solemn and authentic affirmation, both of the right and expediency of this measure, after long reflection and full experiment, and one would think that if there ever were question on the subject, that such question ought to be deemed settled. I shall therefore assume that common education, supported by a general tax, is established in the wisdom and policy

of the state, and that it is happy for the people that it is so. But a tax is a matter of compulsion, and when the citizen is coerced, he can demand with justice that the fund to which he contributes shall be applied to the legitimate purposes of common education, such as a democratic state can properly promote, and no other; and that he shall enjoy equal advantages with all the other contributors to the common fund. In view of this, the founders of the common school, in their report, limited the instruction to such elements of learning as were absolutely necessary for the man and the citizen, and which the children of the poor and humble could readily attain between the ages of five and fifteen years.

In addition to this limited intellectual instruction, the report recommended that "the principles of morality" should be taught, but were, as was fit, totally silent on the subject of religion. Reading, writing, arithmetic and morality; these can be so taught as to offend no one's prejudice, assail no one's faith, and confer nothing but an unmixed benefit upon the youth of a democratic state. Doubtless this limited range of instruction can be extended without violating the principle of perfect neutrality; for surely there is nothing sectarian in grammar, geography, or natural philosophy — and these and even more may be added, as they have been in practice, without violating the design of the founders, which clearly was, to establish schools against which no reasonable man could complain, and where all the children of the state, of every sect and creed, could be instructed without prejudice, and which could be justly supported by a general tax.

But it was contemplated that "the principles of morality" should also be taught; and here, by a mistaken construction, a difficulty may arise. Let us keep in view that the common school is to be neutral ground, a place where the children of the Christian and the heathen, the Catholic and the Protestant, the Unitarian and the Trinitarian, the Jew and the infidel may, without offense to the parents, be taught certain elements of learning, necessary for their welfare and the safety of the state; and by this standard judge of "the principles of morality" which should be taught in the schools. Fortunately, there are a few things in which all mankind are agreed, however they may differ as to their religious creeds, and one of these is the simple rule of justice between man and man. We find it adopted by a pagan nation, hundreds of years before the Christian era, when Confucius delivered to the Chinese the great principle of natural justice, to the acceptance of that people, in the words: "Do not that to another which thou wouldst not have done to thyself." The Greeks heard and approved it from the lips of Socrates; and lastly the Christians embraced its spirit, as it fell from the lips of their Lord and Saviour, who affirmed it as the sum of the law and the prophets. And it is fortunate that the principle of morality contained in this maxim, is sufficient for all the purposes of a democratic state, insomuch that whosoever observes it faithfully, will never violate the laws of a just government; and it can be taught in the schools, without offense to anybody's superstition. It need not be inculcated as peculiarly a Christian maxim, if that would offend anybody. It is not the creature of any particular religion but, a maxim of natural equity and justice, which

springs from the sentiments proper to humanity. But it should be taught by something more than mere verbal repetition; it should be impressed on the pupil's mind, by examples, cases illustrating it, and even by exercises in the way of doing right. Legal principles based upon it should be taught to the scholars, for justice is a science, and its system of instruction can be so framed as to impress the principles of justice and natural equity indelibly on the minds of all well constituted pupils. Will this not do better than religious teaching in the schools? It will do for the state, though it may not for the clergy; but the clergy are not yet the state, whatever they may become. I have heard a staunch religious sectary declare with warmth, that "morality is no part of religion — no part of it, sir!" and I have seen a recent New York legislature, which literally *stank* (I *hate* the word, I use it *because* I hate it) of bribery and corruption, increase by twenty times, the penalty for working, playing or hunting on Sunday; and I agree to a partition between morality and religion, and as a simple minded democrat, venture to prefer the former in the state.

The state only needs so much of morality as makes men just, since justice is the great, if not the only proper function of a democratic government.

In my first section I showed the utter antagonism that exists between a theocracy and a democracy, the elements of which cannot be mingled without danger, if not destruction to the latter. We should avoid the first step toward a mixture of elements so incongruous, out of which dangerous, if not bloody strife may come. Up to the period of the American revolution, no Christian hierarchy or

theocracy had failed to persecute for opinion's sake. Pagans have forborne more; and as between the Catholics and Protestants, the late William Cobbett once wrote a considerable book to prove that the latter had shed far the most blood, in the way of religious persecution. Neither of these sects has anything to boast of on this head; and if the world has any occasion for gratitude to either, it must be for "future favors."

On the other hand, the world owes to an atheist, Napoleon the Great, the abolition of the Inquisition, and the *auto da fe*. But let us return to the idea of the founders of the common school. It was suggested by them, as before stated, that select chapters from the Bible might be read in the schools: *i. e.*, some portions of the book might be used for reading lessons; but it is not to be inferred from their report, that this should take the place of instruction in morality. Some schools early adopted the New Testament for one of their readers, along with two books then current, *The Columbian Orator* and *The English Reader*, the two last being the most popular. The people of this state were then almost wholly Protestant, there were hardly any Catholics, Jews or skeptics; books also were few, and some of the natural sciences were in their infancy; geology especially so. In every respect, save the reading of selected chapters from the Bible, care was taken that all parents and pupils should be content with the management of the schools. There was no room left for quarrel, and none was anticipated. Can any one doubt, that if there had been hundreds of thousands of Catholics and Jews then existing in the state, who might object to Bible-reading in the schools, that the founders would have

forborne to suggest it? They desired a peaceful and prosperous common school; would they have planted disorder and death in their system at the very beginning? No one can believe it; and if they would, the legislature of 1812 abstained from committing so fatal an error.

The law up to 1844 was silent on the subject of the Bible, and then it spoke chiefly to forbid sectarian instruction and practice in the schools; and had that law been perfectly consistent, it would have excluded the Bible from them as a sectarian book, or one calculated to excite sectarian prejudice and strife, and to injure, if not destroy the schools. We have no need to speculate on the subject of its influence, since it has already offended thousands, driven one whole sect from the schools, and endangered their very existence.

The philosophical democrat objects to its introduction, because he would avoid the religious element in all matters of state concern, never forgetting, whatever his religious creed may be, that he is a member of a democratic, and not of a theocratic state. Whatever *he* may have personally, his *state* has no God, no Bible, no church, no religion. He sees at once the incongruity of the religious element in a state school, and would utterly exclude it. Certain men of science object against the Bible, that it conveys false notions of astronomy, and of the earth's geological history; and it is enough that they honestly so object, to make its use in the schools injurious, how ingeniously soever they may be answered by the clergy. Some men of culture and of elevated taste, do not perceive the great sublimity and beauty even in the poetry of the Bible, that is vaunted by its admirers; and although they might

tolerate the book of Job, would by no means agree that the master of a school should read Solomon's song, or the fourth chapter of Ezekiel, to their sons and daughters. It is enough to make a quarrel that they so object, and a quarrel kills the school.

Now no one pretends that the *whole* Bible is a proper reader for the schools, and a difficulty at once arises as to the selection of the portions to be read. Shall the law point out the chapters, or shall the master, or the parish priest select them? The law cannot do it in a democracy, and it is left to the master or the priest, and on their happy choice depends peace or war in the school district. "Let us have peace;" but there is no peace with the Bible in the schools. There are parents, and there are pupils, who do not recognize a *personal* God, and they object to the introduction of a book which inculcates that idea. A democratic state does not decide between the idea of a personal deity, and a Supreme divine power in nature, and will not therefore encourage an authority or bias in favor of one idea or the other; and yet if it place the Bible in the schools, it really seems to determine in favor of a personal divinity.

There are Jews by tens of thousands in our midst, who hold the Old Testament sacred, but utterly reject the New; yet the Bible embraces both, and the Jewish parent protests against the reading the latter in the schools. Shall the Christian schoolmaster *spite* the Jew by reading the Gospel to his children? The school is neither Jewish nor Christian, as the state is neither, so that legally we cannot quarrel with the Jew; then why put the schoolmaster to the waste of a useless preliminary insult, since we cannot

any longer indulge in the luxury of persecuting this ancient people? Then comes the Catholic host — numerous, well organized, powerful, and they demand that the Bible be taken straightway out of the schools. You refuse their reasonable request, and after thirty years of remonstrance, they finally take away their children, set up sectarian schools of their own (a thing most pernicious to the state), and demand that the school tax shall be apportioned for their support. Surely this Bible controversy is anything but “a pretty quarrel as it stands!” I say nothing of certain plodding naturalists, who talk of “force and nature,” nor of the friends of the “positive philosophy,” of the progressive theory of creation, of the disciples of Darwin, and such like godless people, very properly denounced by Pope Pius IX, in his syllabus; as these have no religion, so the world may consider that they have no rights, and that they may be justly taxed for the support of schools, which teach the contrary of all their pestilent doctrines to their children. It may be a mercy to take these from them, as did the saintly Lord Eldon; the children of Shelley, and teach them that “there is a God in Israel,” as the Connecticut deacon did the wasp that stung him. You may hit them again and again, since “they have no friends;” and yet in a democratic state, though it may seem strange, the rights of these people, and even their feelings, if such people can be supposed to have any, are, in theory at least, as sacred as those of the saints.

The advocates of the Bible in the schools claim that it is not a sectarian book. In this they are partly right, but in the main wrong. Looking on it as the general fountain of the Christian religion, as to Christians alone, it is not

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properly sectarian in itself, but it is used and interpreted as between themselves, almost purely for sectarian purposes. There is more than one edition and one reading of it. The Protestant Bible is sectarian as to the Catholic, and the Catholic Bible is sectarian as to the Protestant; the New Testament is sectarian as to the Jew, the whole Bible is sectarian as to the deist, the pagan and the infidel; and the several portions of it are used in support of all the different sectarian doctrines. But call it only the Christian's book, if you please; give it the utmost catholicity, and then, I say, any Christian and all Christians are sectarian. Suppose all Christians to be agreed on one version, and one interpretation of the Bible, still in a large sense it is sectarian, as Christians are but one, out of many religious sects, and are greatly outnumbered by the three hundred and fifty millions of Buddhists, some of whose priests and people are now thronging to our shores, and may become citizens claiming equal rights under the 15th amendment to the Constitution of the Union.

Still it is insisted that we are a Christian people; and I grant that the great body of our citizens are at present Christian; but that although a Christian *people*, we are not a Christian but a democratic *state*, and such a state can have no religion whatever. I rested the argument on that subject with my first section, and shall not repeat it here.

And, lastly, it is urged, that as yet the Christians are in the majority, that this must rule, and that the majority demands religious instruction in the schools. No doubt that in a matter which is the legitimate subject of state authority, the majority must needs rule; but the majority in a democratic state has no proper legal jurisdiction over

the subject of religion, and therefore cannot rightfully force a minority, however small, into a practice or an expenditure at variance with the first principles of democratic government. The objection is to their jurisdiction; that wanting, and they can do nothing rightfully; that conceded, and the majority may do anything.

IV.

We have seen that we cannot have religious teaching in the schools founded by the state, without violating the first principles of democratic government, and endangering the public peace and safety; and yet the two grand divisions of Christians claim that their consciences cannot be satisfied without making religion a part of education. How then can we accommodate the matter, so as to preserve from violation the democratic theory of government, and the consciences of these religionists at the same time?

To preserve the theory of the state, we exclude religion from the schools founded by the state; to save the consciences of the religionists, we allow them perfect freedom of religious opinion and practice, and give them the fullest opportunity, at all times and everywhere, save in the school, to teach religion to their children. One theatre alone is denied them — and that, not from hostility to religion, but for reasons of state necessity. They have still home and the family, where the father, mother, and priest are free to impress their religion on the minds of the children, on every day in the year. They have the church on Sunday, all the evenings of the week; the Sunday school, holidays, and all days of especial solemnity, of fasting and prayer. Besides this, they may resort to printed sermons, religious books and tracts. Is not this enough in all conscience? Is the “twig” so hard to bend, as that with all these means and opportunities, the “tree” will not be sufficiently “inclined?”

The clergy fully appreciate the lines of Pope on the influence of education, and hence this vehement struggle for sectarian schools, this clutching at "early twiggery." But let them read the same poet a little further, where he says :

For modes of faith, let graceless zealots fight,
His can't be wrong, whose *life* is in the right;

And have the candor to admit that the state is only concerned for a life of rectitude in her citizens; while it is the clergy who are chiefly interested in their religious faith. Works pay the state, and faith the clergy; but works pay without faith, while faith without works is void to all save the priesthood.

Now if with all the opportunities mentioned, anybody is so irrepressibly religious as that he cannot contain himself, let him be reminded that he is out of place in a plain, practical democracy, and would do well to go away and imitate the Syrian shepherd, Simeon Stylites of old, who ascended a column of great height, and stood there for a quarter of a century, spending his time in praying and preaching, and on solemn festivals stretching out his arms, so as to resemble a cross, until he became holy Simeon, and was regarded as a prophet of God. Or he might do well to imitate those Asiatic devotees, who separate themselves from mankind, and taking to solitudes and deserts, bow their heads in silence, cross their eyes and look steadfastly at the bridge of their nose all the day long, straining intensely to perceive how a poor toadstool of the earth can comprehend infinitude!

American statesmen have greatly distrusted the clergy, and not without reason. An ambitious priesthood is a

dangerous power in the state; if any one doubt this, let him read chapter 18 of the second book of *Blackstone's Commentaries*, of Alienation in Mortmain, and there see the struggles of the English government to defeat the ecclesiastics in grasping the landed estates of the kingdom; a history of statutory enactments against the devices of the clergy, running from the reign of Henry III to that of George II, before the cunning and craft of the priesthood were finally defeated by the art and assiduity of the parliament. It is to be hoped that we are not to have a similar struggle in this country. The hound in following the fox — Pickwick in hot pursuit of Jingle, are as nothing in comparison with the great British hunt after the wily ecclesiastics, which was the greatest "steep^e chase" that ever transpired in Britain. But to return to the school.

I have before me the pamphlet of the Rev. Thomas S. Preston, giving the Catholic view of the public school question, which is the ablest exposition of that view I have yet seen. The substance of his first objection to our schools, is: that they cannot be absolutely non-sectarian; that religion cannot be eliminated from all studies; that many text books have misrepresented the Catholic creed; that the use of the Bible is objectionable, since all do not agree on the same version, or consent to its authority; and that for these difficulties there is no remedy.

Now the whole difficulty here presented, is rather apparent than real. The writer is clearly right in objecting against a sectarian state school, and sectarian school books; but when he says that a state school cannot be rendered absolutely non-sectarian, he clearly underrates

human ingenuity. Let the public be as sedulous to make the schools non-sectarian, as some have hitherto been to render them the contrary, and the thing desired will be at once accomplished. I grant that Webster's Spelling Book has, by some officious persons, been rendered in some sort sectarian; but the purity of that work can be restored by simple erasure. Had the work of interlarding that book with religious passages been much longer continued, even the alphabet might not have been spared; and instead of reading straight downward we might have had something like the following:

A begins Adam, who had a great fall,
 E stands for Eve, the cause of it all;
 G for a god, who denied them all knowledge,
 S stands for Satan, who taught the first college, &c.

And as we advance to the higher branches of learning, we find a similar attempt to thrust religious ideas or theories into the school books. Perhaps some sectarian will eventually modify that portion of the multiplication table, which affirms that 3 times 1 are 3, by inserting an exception in the case of the Trinity. Even Mr. Dana, in his excellent *Manual of Geology* for the use of academies and schools of science, could not conclude his work without paying a compliment to the cosmogony of Moses; yet many profound geologists venture to think, that were he living in this age of science, Moses might return the compliment, by approving of every chapter of Mr. Dana's book, except the last.

The demand has hitherto been for books in some sort sectarian, and hence the supply. Let the demand cease,

and with it will cease the supply. With the Bible and prayer excluded, and with such studies as I referred to in my last paper, it is impossible that sectarianism should creep into the schools, except by the grossest abuse on the part of the teachers, for which their prompt dismissal is the remedy.

Mr. Preston's second point is, that the Catholics need something more than non-sectarian schools, even if they could be established; that negations in religion and science do not suit them; that education and religion are inseparable, and that an attempt at such separation will produce a race of infidels. In this for once, the Catholic and Protestant clergy seem to be agreed, and the struggle between them is for mastery. My theory of the function of a democratic state, is an answer to both. If not, the fact that three generations have been reared under our system of common schools, and that both Catholics and Protestants concur in pronouncing this a Christian nation, and regard the infidels as so few, as to be of no account whatever, while it is obvious that the religious ideas of our population have been inculcated mainly out of the schools established by the state, would seem to be a full answer to so much of the case presented in this second point, as relates to infidelity. There would be more plausibility in the objection, if there were not ample time and opportunity for religious instruction out of the common school. It surely is not necessary that the pupils should receive all their instruction in the same place, and from the same books and teachers.

The school may teach the simple elements of science and learning without religion, leaving the parent and the

priest to teach religion without learning or science. The first by no means precludes the last. The pupil can listen to two teachers, one in the school house and the other in the church, and neither need interfere with the other. And if with this fair opportunity, the priest do not make a due impression on the youthful mind, it will be such a failure as the world has never yet witnessed.

Mr. Preston then claims that the Catholics are obliged, for the causes stated, to establish schools of their own, and that they may do this of right. I concede the right, while I deny the necessity of the measure. Purge the schools of the religious element, and the necessity fails; and although the right remains, yet the expediency of its exercise is more than doubtful. The building up of unnecessary partitions between the citizens of the same state — the studious separation of them into classes, only ministers to faction, and prevents that unity of feeling and sentiment, upon which the stability of a state greatly depends.

This writer at length comes to the practical question of the support of the schools, and claims it as just, that the state should either remove all taxes for their support, or give his order of religionists their proper proportion of the fund for the support of a sectarian school.

I say nothing now of the policy or necessity of our state establishment, but assume that we shall continue the tax for its support, and if we do, then Mr. Preston's proposition is, that "every religious denomination which has its own schools shall draw its proportion of the sum raised by general taxation, according to the number of children which it educates;" and adds that, "the governments of

Europe, almost without exception, have seen the propriety of denominational schools, as the only possible plan to secure harmony and general education." The idea is confessedly un-American, and foreign to democratic institutions. It weakens the people as a whole, by their divisions, and prevents that union by which they could secure their rights and liberties as against the thrones which rule them. Such a system may be good for despots and powerful church establishments, while it is bad for the people. Our school is adapted to our system of government, and is indeed the creature of a democratic state, and needs not to reform itself by monarchical examples. We do not care to cultivate religious bigotry; enough will spring up without culture; and I have a mind to say that our common school is of more value to the republic than all the priests and all the sectarian religions in the land. Let the history of the world, up to the period of the founding of our United Democracy, answer whether the priest has been a blessing or a scourge to mankind. And that he has not been destructive to human rights and welfare here, is because we have by our Constitutions ignored religion as a power in the state.

Nothing so deadly as religious bigotry and hatred, and when priests meddle with the affairs of state, there will be a struggle for sectarian ascendancy, which may end in civil war, and the loss of civil and religious liberty.

We had better take the risk, if there be any, under our common school system, of having "a race of infidels." Indifference, skepticism, and even infidelity, are far less dangerous in a state than religious bigotry and infuriate zeal. An atheist is safer than a Jesuit, as no divinity is

better than an "almighty fiend;" as Shelley denominated the deity of a bigoted and persecuting priesthood. The deity of the Inquisition had far better be ignored than worshiped; and atheism would have been the greatest blessing to Spain, when she was cursed with religious torture, the Inquisition, and the *auto da fé*. Nor was the Reformation a cure for religious persecution. The meagre and dyspeptic Calvin justified the burning of Servetus (who was in all respects his superior), on the ground that heretics should be put to death without mercy, and even hinted that men deserved to die for their *doubts* in matters of religious faith. On the other hand, Lord Bacon says, that: "Atheism leaves a man to sense, to philosophy, to natural piety, to laws, to reputation; all which may be guides to an outward moral virtue, though religion were not; but superstition dismounts all these, and erects an absolute monarchy in the minds of men; therefore atheism did never perturb states, for it makes men wary of themselves, as looking no further, and we see the times inclined to atheism (as the time of Augustus Cæsar) were civil times; but superstition hath been the confusion of many states, and bringeth in a new *primum mobile* that ravisheth all the spheres of government."

Among the authorities quoted by Mr. Preston, is the famous syllabus of Pope Pius IX, of 1864, referring to that part which relates to the subject of education, and he seems to bow to this as to the law of the land. It is the will of the Pope that education shall not proceed, as it has hitherto done in this country. An old fashioned American would naturally inquire, What is that to us? Not so the new order of *quasi* Americans; and doubtless it is the

order of the Pope which has increased the demand of his subjects among us, from the first claim, that the Bible and sectarian books should be withdrawn from the schools, which was reasonable, to the present claim, that the school moneys shall be apportioned for the support of sectarian schools, which is treasonable to a democratic state. Americans do not recognize the jurisdiction of the Pope over this matter. It will be in time to obey him, when he becomes our master; and the denial of this claim is one mode of preventing his becoming such.

But the sacred name of Washington is quoted by this writer, to support the proposition, that morality cannot be maintained without religion. It needs not the authority of so great a name to show, that where there is at present the greatest ostentation of religion there is the least morality. Washington gave no countenance to sectarian religion; did not attend church during the latter part of his life, called for no priest on his death bed; and although his intellect was unclouded up to his last moment, so that he gave instructions as to his business and his burial, not one word escaped his lips of a religious character. It is claimed that he lived as a Christian; it is clear that he died like a philosopher, and that justice rather than religion, was the strongest feature of his character.

Mr. Preston, as if descending from the sublime to the ridiculous, quotes Gov. Seward's message of 1840, in which he recommended the establishment of schools, where the children differing from Americans in religion or language, might be instructed by teachers of their own language and religious faith. This at the time was regarded as the bid of young ambition for the Catholic

vote; and according to my recollection, the Catholics, for a season, performed their part of the contract; and now if the governor has failed to perform his part, it may be because of his political bankruptcy, and if so, the promisees must look to his assets, and not to the state treasury for their indemnity.

In case of the abandonment of the state tax for the support of common schools, where are the children of the non-sectarian poor to be educated? A humble parent, in that event, though he may esteem all sectarianism pernicious, both in religion and the state, must send his child to the bigot's school, to be made a proselyte of his religion, or allow him to grow up without any education. The solitary Quaker, who dreads a priest of any sect, must place his child in his arms; the lonely Jew must surrender the ancient prejudice of his race, and allow his children to embrace a modern superstition with their A B C; and the infidel — but it is no matter for him; let him congratulate himself that he is not speedily destroyed, as he might be, if the religious bigots made the law, and could agree on a platform for his gallows. Alas! for the long cherished and admirable common school of the democratic state! the Alma Mater of the children of the poor; without which, thousands of youths who have risen from the humblest condition, to become useful and virtuous members of society, and to occupy important official stations, would have been hewers of wood to some railway king, or drawers of water to some fat bishop (if such indulge in that beverage), secure, it may be, of their future spiritual estate in fee simple absolute, but with their life estate in this world surrendered to their spiritual fathers. This

hope of the republic has fallen among bigoted religionists, who would wrest it to their sectarian purposes, or destroy it altogether. The school can only be preserved by the shield of the statesman; by such was it established and by such let it be maintained.

A distinguished Protestant divine has argued, that not only the state, but even a business corporation must have a religious character, and instances a railway company, as necessarily bound to assume a Christian attitude. Lawyers suppose that a corporation is soulless, and that its imputed immortality is legal, not spiritual. In this they may err, and this divine may be able to inform them what is the religion of the Erie and the New York Central railways, about which the public cannot but feel curious. All we know of it is, that both agree in a baptism by *water*.

The author of a tract entitled *The Bible and the School Fund*," affirms that the *state* must believe in a God or no God; and that it cannot in the nature of things, occupy a neutral position. Now the state is a corporation for the securing of justice and tranquillity among the people; its existence is not natural but constitutional and legal. The corporators may be religionists, but the ends of the corporation are not religious. The people who institute the corporation may have a hundred different religions, but still employ the *state* only to establish justice and peace. And if the state be not theocratic, it will take no notice of religion, and give preference to none. The stockholders of a railway corporation may cherish a dozen different religions and yet ventilate none of them on the rail. A parson may not see this, accustomed as he is to be everywhere the same. He will not admit the distinction

between the people in their natural capacities, and the artificial existence, the state, which they ordain.

The author of the tract, mentioned above, also affirms that Christianity is a part of the law of the land. To a lawyer, this is a bold and startling proposition, and calls up fearful historical recollections.

Now "the land" here referred to is, in the largest sense, the United States of America, and we naturally look to see if Christianity is a part of the law of the general government. The original articles of Confederation are utterly silent on the subject of religion. The Constitution of the United States does not mention the subject of God or religion in its preamble, and only speaks on the subject to forbid Congress to establish any religion whatever. Dr. Clark could not have intended to say, therefore, that Christianity was a part of the law of the United States. It can only be the law of a country which establishes it as a religion. The United States by forbidding the establishment of any religion, necessarily precluded Christianity from entering into their law. Perhaps it was intended that Christianity was the law of the state of New York. The Constitution does not ordain it, but on the contrary provides for perfect freedom of religion for *all mankind*, which freedom is incompatible with the establishment of Christianity, which is the religion of but a small portion of our race. No statute of this state adopts Christianity, and it might be void if it did. Does this religion come in by the common law of England? I venture to deny it, as inconsistent with our system of government, even if it were a part of that common law. The common law, moreover, existed while the Anglo-Saxons were pagans, and for centuries

before they were converted to Christianity — and so it has been denied by learned men — and Mr. Jefferson among the number, that Christianity is a part even of the common law of England.

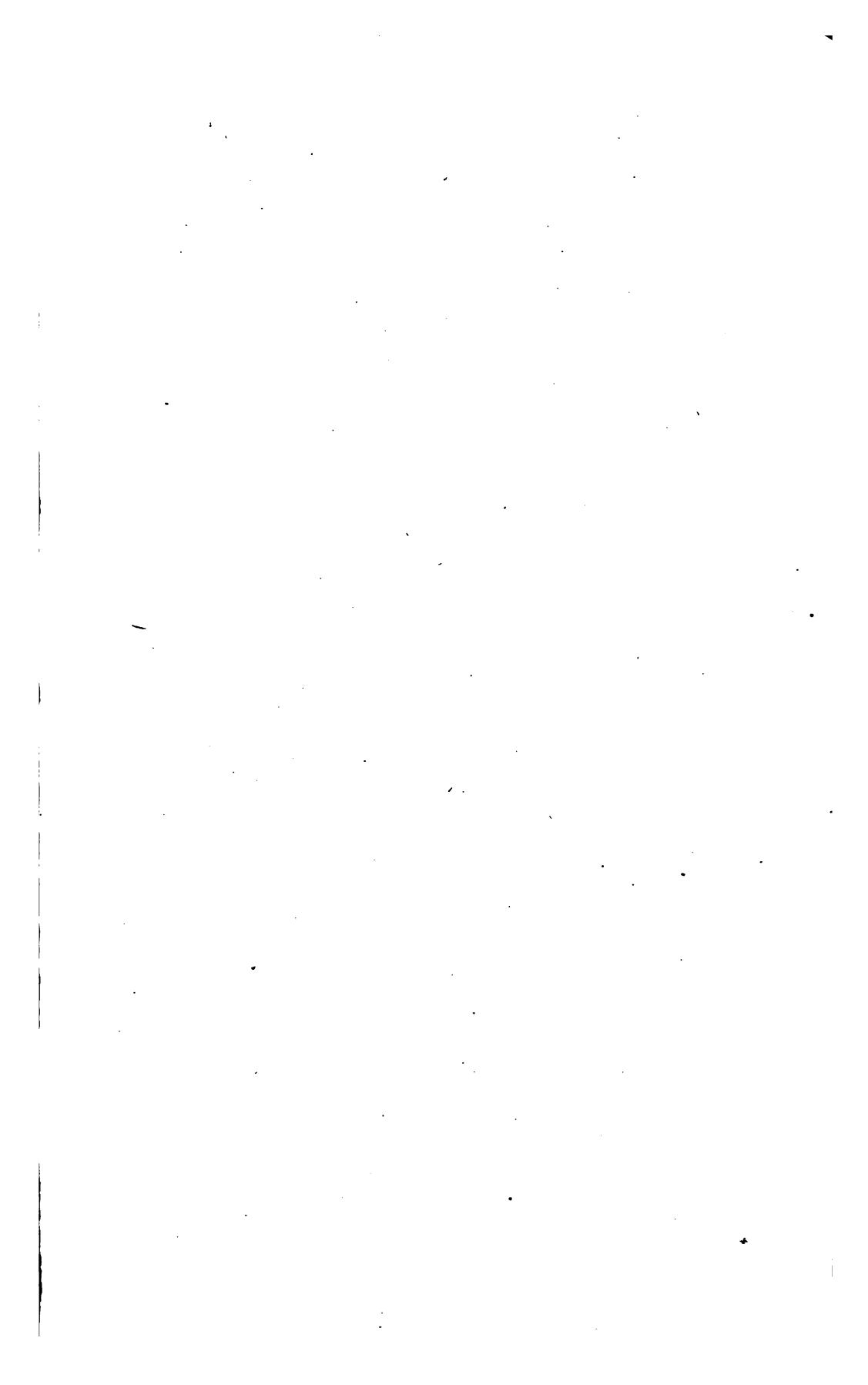
But if Christianity be a part of the law, it becomes necessary to define what Christianity is, and with the precision requisite to a law. No statute has done this, and it must therefore be left to the doctors of divinity to define it. Will they oblige us? Is Protestantism Christianity? and if so, which form of it? Is Catholicism Christianity? If so, the syllabus of Pius IX is the law of the land. But I will refer no further to clerical suggestions on this subject. The answer to them all is found in a true theory of the democratic state, which I have endeavored to present, and if I have been successful, then nothing is left but clerical declamation, which I concede to be unanswerable.

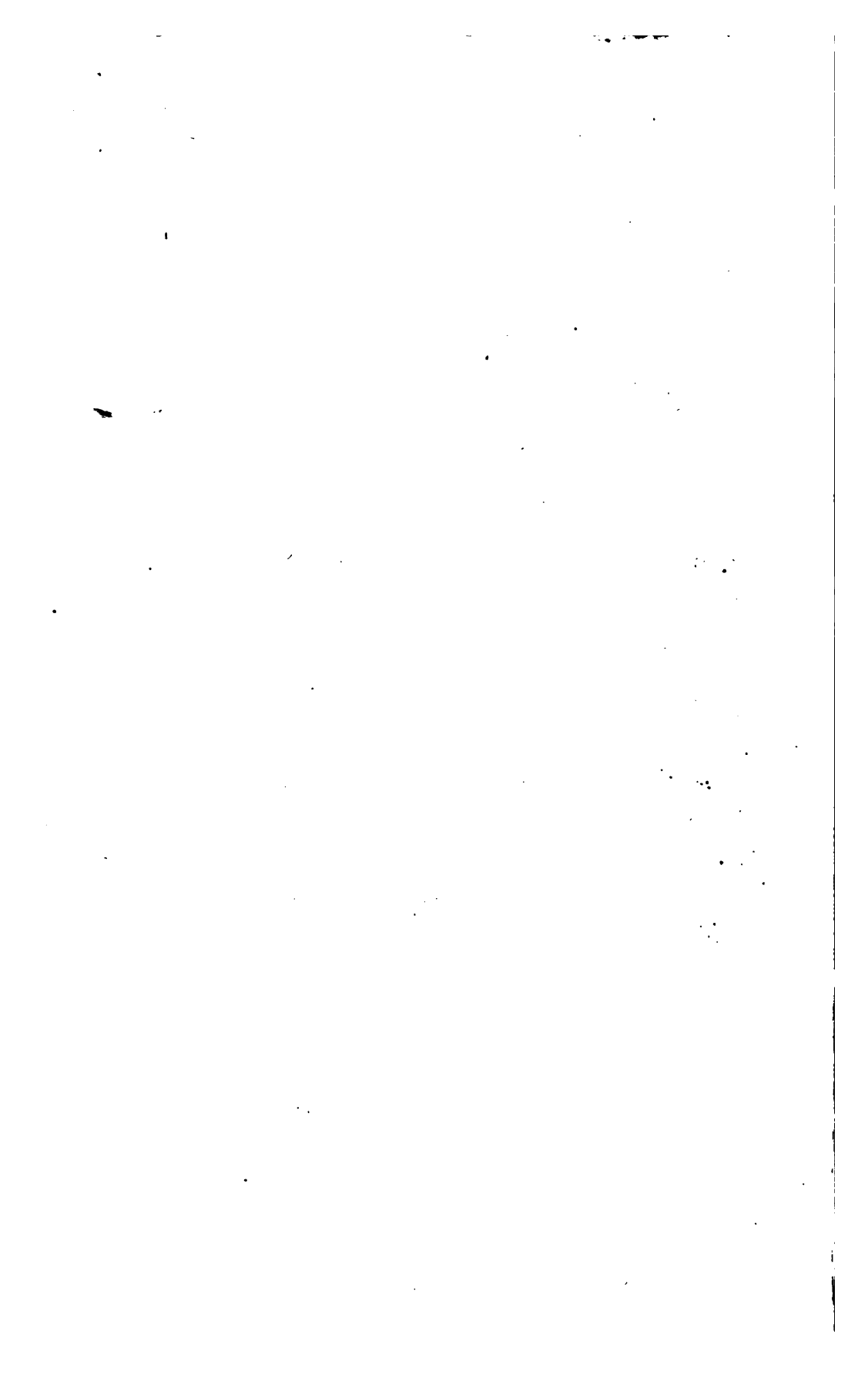
And now, with a view to prevent the support of sectarian schools and institutions by a state tax, and to guard against gifts and grants to favorite and powerful religious sects, I venture to propose the following, as an amendment to the Constitution of the United States, which seems to be as important as any which has been recently adopted.

To the end that the functions of civil government may be exercised without interference in matters of religion ; neither the United States, nor any state, territory, municipality, or any civil division of any state or territory, shall levy any tax, or make any gift, grant or appropriation for the support, or in aid of, any church, religious sect or denomination, or any school, seminary, or institution of learning, in which the faith or doctrines of any religious order or sect shall be taught or inculcated, or in which religious practices shall be observed ; or for the support, or in

aid of any religious charity or purpose, of any sect, order, or denomination whatsoever.

If my fellow citizens will neither adopt the foregoing amendment, nor abstain from the practices which it is designed to prohibit, our people will at length become divided into religious factions, the most intolerant and fierce, which can pervade a state; our Constitution be trampled under foot, and our country at length be deprived of her boasted liberties. It is easier to erect a theocracy on the basis of ignorance and fanaticism, than to preserve a democracy through reason, intelligence, and the active sense of justice; it is easier to destroy than to preserve civil and religious liberty. The descent once begun, the way to ruin is not difficult. *Facilis descensus Averno.*







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